

DAVID H. KRAMER, State Bar No. 168452
COLLEEN BAL, State Bar No. 167637
LISA A. DAVIS, State Bar No. 179854
BART E. VOLKMER, State Bar No. 223732
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 565-5100
DKramer@wsgr.com

JONATHAN M. JACOBSON, N.Y. State Bar No. 1350495
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
12 East 49th Street, 30th Floor
New York, NY 10017-8203
Telephone: (212) 999-5800
Facsimile: (212) 999-5899
JJacobson@wsgr.com

Attorneys for Defendant
Google Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KINDERSTART.COM, LLC, a California
limited liability company, on behalf of itself and
all others similarly situated,

Plaintiffs,

v.

GOOGLE INC., a Delaware corporation,

Defendant.

CASE NO.: C 06-2057 JF (RS)

**DECLARATION OF MATTHEW
CUTTS IN SUPPORT OF
DEFENDANT'S MOTION FOR
SANCTIONS AGAINST
KINDERSTART.COM AND
GREGORY J. YU PURSUANT TO
FED. R. CIV. P. RULE 11**

Before: Hon. Jeremy Fogel
Date: December 8, 2006
Time: 9:00am
Courtroom: 3, 5th Floor

1 I, Matthew Cutts, declare as follows:

2 1. I am a Senior Staff Software Engineer at defendant Google Inc. ("Google"),
3 where I have been employed since January, 2000. As part of my duties at Google, I regularly
4 post publicly available explanations of Google's policies and procedures in connection with the
5 operation of Google's search engine, and I am familiar with those policies. I am over the age of
6 eighteen and competent to make this declaration. I make each of the following statements based
7 on my personal knowledge, and I could, if necessary, testify to the truth of each of them.

8 2. I have read paragraphs 130, 131, and 135 of Plaintiff's Second Amended
9 Complaint ("SAC") in this action, which allege that Google, in various ways, skews its web
10 search results to favor website owners, advertisers and other entities in exchange for
11 consideration, including reserving "the number one top position" for sites offering consideration.
12 These allegations are false. To my knowledge, Google does not now, and never has, accepted
13 payment or consideration of any kind in exchange for setting or changing the order in which its
14 search results would otherwise appear. In fact, in its Form S1 filed on April 29, 2004 in
15 connection with its Initial Public Offering, Google noted: "We believe it is very important that
16 the results users get from Google are produced with only their interests in mind. We do not
17 accept money for search result ranking or inclusion." I believe that this statement was 100%
18 correct at the time it was made and remains 100% correct today.

19 3. I have also read paragraphs 60(c), 89, 136, 147, 238, 243, and 266(f), which
20 include allegations that Google has stated that it will always display a notice when it removes a
21 website from its search results. Paragraphs 60(c), 89, and 147 attribute the following quote to
22 Google: "When we remove search results, . . . we display a notice on our search results." This
23 allegation is false. When the SAC reproduces this sentence from Google's policy, it omits the
24 phrase "for these reasons," replacing that phrase with ellipses. The actual policy, as currently
25 posted on Google.com at <http://www.google.com/support/bin/answer.py?answer=33406&topic=368>,
26 reads in full as follows:

27 It is Google's policy not to censor search results. However, in response to local
28 laws, regulations, or policies, we may do so. When we remove search results for
these reasons, we display a notice on our search results pages. Please note: For
some older removals (before March 2005), we may not show a notice at this time.

1 When reproduced in part as it is in the SAC, Google's policy seems to be that it always displays
2 a notice on its search results pages when it removes search results. That is not Google's policy
3 and never has been. Had KinderStart not removed the phrase "for these reasons" from the
4 sentence quoted above, it would have been obvious that Google's published policy states that
5 Google displays a notice that it has removed search results only under certain circumstances (in
6 response to local laws, regulations, or policies). While Google displays a notice when it removes
7 sites for legal reasons (for example), Google does not show a notice when it removes or
8 otherwise takes action against sites for attempting to spam Google's index or otherwise violating
9 Google's quality guidelines. Attached hereto as Exhibit A is a true and correct copy of the web
10 page located at. <http://www.google.com/support/bin/answer.py?answer=33406&topic=368>.

11 4. Paragraph 89 of the SAC includes the allegation "On information and belief, not
12 once has the Engine ever produced Search Results viewed within the U.S. that disclose or notify
13 users that Speech Content, URLs or Websites have been removed from the results." This
14 statement is false and even the most basic of inquiries would have revealed as much. To take just
15 one example, Google posts a notice when it removes search results under the US Digital
16 Millennium Copyright Act. Today, a Google user who performs a search for the term "xenu,"
17 will be presented with a notice at the bottom of the first page of search results that reads "In
18 response to a complaint that we received under the US Digital Millennium Copyright Act, we
19 have removed 1 result(s) from this page. If you wish, you may read the DMCA complaint that
20 caused the removal(s) at Chilling Effects.org." The website ChillingEffects.org provides a list of
21 DMCA complaints sent to Google, among other information on the DMCA. Attached hereto as
22 Exhibit B is a true and correct copy of the first page of search results returned when a user
23 submits the search query "xenu" at Google.com.

24 5. I have also read paragraphs 99, 166, 167 and 257 of the SAC, which allege that
25 Google blocks search engine results or lowers PageRanks based on "discriminatory political and
26 religious content". Again, these allegations are baseless. To my knowledge, Google has never
27 blocked web search results or lowered PageRanks based on the political or religious nature of the
28 contents of a site. Indeed, one need only search at random for any political or religious topic to

1 see that links to the full gamut of religious and political perspectives are available through
2 Google's search engine.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is
4 true and correct to the best of my knowledge. Executed on September 28, 2006 at Mountain
5 View, California.

6
7 Case 5:06-cv-02057-JF

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By: /s/ Matthew Cutts
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Matthew Cutts